

THE THEATER MISSILE DEFENSE  
ACT OF 1995

WARNER (AND OTHERS)  
AMENDMENT NO. 568

(Ordered referred to the Committee on Armed Services.)

Mr. WARNER (for himself, Mr. DOLE, Mr. THURMOND, Mr. LOTT, Mr. COHEN, Mr. NICKLES, Mr. KYL, Mr. STEVENS, Mr. COCHRAN, and Mr. SMITH) submitted an amendment intended to be proposed by them to the bill (S. 383) to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems; as follows:

At the end of the bill add the following:

TITLE II—DEVELOPMENT AND DEPLOYMENT OF THEATER MISSILE DEFENSES

SEC. 201. SHORT TITLE.

This title may be cited as the "Theater Missile Defense Act of 1995".

SEC. 202. POLICY ON DEVELOPMENT AND DEPLOYMENT OF THEATER MISSILE DEFENSES.

It is the policy of the United States that advanced theater missile defenses should be developed and deployed as soon as possible in order to provide protection for United States military forces stationed or deployed in foreign theaters of operation and for allied forces participating in operations with those United States military forces.

SEC. 203. POLICY ON USE OF FUNDS TO LIMIT THEATER MISSILE DEFENSES UNDER THE ABM TREATY.

(a) FINDINGS.—Congress finds that a missile defense system, system upgrade, or system component capable of countering modern theater ballistic missiles has not been tested in an ABM mode nor been given capabilities to counter strategic ballistic missiles and, therefore, is not subject to any application, limitation, or obligation under the ABM Treaty unless and until such missile defense system, system upgrade, or system component has been field tested against a ballistic missile which, in that field test, exceeded (1) a range of 3,500 kilometers, or (2) a velocity of 5 kilometers per second.

(b) PROHIBITION.—Appropriated funds may not be obligated or expended by any official of the Federal Government for the purpose of—

(1) prescribing, enforcing, or implementing any executive order, regulation, or policy that would apply the ABM Treaty, or any limitation or obligation under such treaty, to research, development, testing, or deployment of a theater missile defense system, a theater missile defense system upgrade, or a theater missile defense system component; or

(2) taking any other action to provide for the ABM Treaty, or any limitation or obligation under such treaty, to be applied to research, development, testing, or deployment of a theater missile defense system, a theater missile defense system upgrade, or a theater missile defense system component.

(c) COVERED THEATER MISSILE DEFENSES.—(1) Except as provided in paragraph (2), subsection (b) applies with respect to each missile defense system, missile defense system upgrade, and missile defense system component that is capable of countering modern theater ballistic missiles.

(2) Subsection (b) ceases to apply with respect to a missile defense system, missile defense system upgrade, or missile defense sys-

tem component when such system, system upgrade, or system component has been field tested against a ballistic missile which, in that test, exceeded (A) a range of 3,500 kilometers, or (B) a velocity of 5 kilometers per second.

(d) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972, and includes to Protocol to that treaty, signed at Moscow on July 3, 1974.

SEC. 204. ADDITIONAL COMMITMENT.

While the other provisions of this title specifically address defenses to counter the growing threat of theater ballistic missiles, Congress also hereby affirms its commitment to ultimately provide the United States with the capability to defend the people and territory of the United States from attack by ballistic missiles.

Mr. WARNER. Mr. President, I rise today, in continuation of my longstanding efforts—working with many others—in support of missile defenses, to introduce the Theater Missile Defense Act of 1995. I am pleased to have as original cosponsors of this legislation Senator DOLE, Senator THURMOND, Senator LOTT, Senator COHEN, Senator NICKLES, Senator KYL, Senator STEVENS, Senator COCHRAN, and Senator SMITH.

Mr. President, few would argue with the compelling need we are facing for defenses against the growing threat of attack from theater ballistic missiles. Indeed, poll after poll has shown that the overwhelming majority of Americans believe that we already possess a highly effective capability to defend forward-deployed troops—and indeed the United States—from ballistic missile attack today are only slightly better than they were during the Gulf War.

Iraqi SCUD missile attacks during Desert Storm brought home to all Americans the vulnerability of United States forward-deployed troops to short-range—theater—ballistic missile attacks from third world nations. Although the Iraqi SCUDs were rudimentary, comparatively inexpensive, weapons which were not considered "militarily significant," they wrought havoc on allied operations, alerts disrupted the front lines as well as the rear echelons. And on February 25, 1991, an Iraqi SCUD missile attack that struck a United States military barracks in Saudi Arabia represented the largest single cause of American casualties during Desert Storm.

Currently, over 30 nations have short-range ballistic missiles. And 77 nations have cruise missiles in their inventories. The defenses being developed to counter theater ballistic missiles will also incorporate some capabilities to counter cruise missiles. In addition, the Department of Defense is actively pursuing a dedicated effort to develop defenses which are focused specifically on the growing cruise missile threat.

As the Gulf War demonstrated, the threat such missiles pose to the men and women of the U.S. Armed Forces is real, immediate, and growing. We must

accelerate the development and deployment of highly effective theater missile defense systems to protect our troops. We owe it to the brave men and women who serve in uniform to provide them with the most advanced defense systems which we are technically and financially capable of producing. Work on such defenses should not in any way be constrained by restrictive and erroneous interpretations of the ABM Treaty—a 23-year-old treaty with the former Soviet Union. I would also like to point out to my colleagues that the restrictions of the treaty currently hamper the defense efforts of only two countries—the United States and Russia. To the extent we allow the U.S. to be "handcuffed" by the limits of this Treaty, the U.S. fails to utilize its full scientific potential while other nations are free to pursue their defenses against ballistic missile attack unrestricted by this treaty.

Mr. President, the ABM Treaty was never intended to limit or restrict theater missile defense systems. The administration concedes this point. In addition, I have had the opportunity to discuss this issue recently with two individuals who were intimately involved in the ABM Treaty negotiations, John Foster and former Secretary of State Henry Kissinger. They both agreed that defenses against theater missiles were never contemplated during the ABM Treaty negotiations. According to Secretary Kissinger, the focus of the negotiations was on defenses against intercontinental ballistic missiles because, "Those were the only systems that were in existence."

But, unfortunately, this administration is pursuing a policy—and is in the process of negotiating some type of legal obligation, or "demarcation agreement," with the Russians—that would allow ABM Treaty limitations to restrict our theater missile defense efforts. Indeed, an administration delegation headed by Deputy Secretary of State Strobe Talbott left last evening for Moscow to discuss a number of issues, possibly including the demarcation talks. I note that Deputy Secretary of Defense Deutch dropped off of this trip, in part because of concerns expressed by a number of Members of Congress that he intended to conclude a demarcation agreement with the Russians while in Moscow.

I hope that the submission of this legislation today will send a clear and unequivocal signal to the administration, and particularly to that delegation headed to Moscow, that the Senate will not sit idly by and allow the administration to sacrifice our theater missile defense capabilities in the interest of concluding a deal with the Russians. I hope the Russians will come to the realization that they need effective, advanced theater missile defenses even more desperately than we do. They are facing hostile nations on their borders which possess these short-range ballistic missile systems.

Mr. President, in the Missile Defense Act of 1991, the Congress urged the President to pursue discussions with the parties to the ABM Treaty to clarify the demarcation line between theater missile defenses and antiballistic missile defenses for the purposes of the ABM Treaty. Those negotiations should have been undertaken for the sole purpose of making clear that theater missile defense systems were not limited by the ABM Treaty.

Unfortunately, those negotiations are seriously off-track. Recently, I joined with a number of Senators in sending two letters to President Clinton expressing our concern that the administration had indicated a willingness to accept significant performance limitations on our theater missile defense systems, and urging a suspension of those negotiations. Despite these clear expressions of congressional concern, subsequent meetings that I and other Republican Senators have had with high level administration officials in recent weeks have confirmed that the administration is intent on concluding an agreement with the Russians that would limit the great technological potential of the United States to develop and deploy the most effective theater missile defense system we can build. Who is willing to stand up and say we owe less to our armed forces?

In addition, it has become clear to be that the administration does not contemplate submitting any such "demarcation agreement" to the Senate for advice and consent, as required by legislation which I sponsored to last year's Defense authorization bill. I am troubled that the Senate will not be allowed a role in an international agreement that will impose major new limitations and obligations on the United States.

It is time for the Congress to act to ensure the development of the most capable, cost-effective theater missile defense architecture to protect our forward-deployed forces.

Therefore, I am submitting this amendment today, together with my cosponsors, to prohibit the obligation or expenditure of any funds by any official of the Federal Government for the purpose of applying the ABM Treaty, or any limitation or obligation under that Treaty, to the research, development, testing or deployment of a theater missile defense system, upgrade or component. The standard which we have used in this legislation to defined the demarcation between antiballistic missile defenses which are limited by the ABM Treaty, and theater missile defenses which are not, is similar to the one used by the administration at the beginning of the demarcation negotiations—that is, a missile defense system which is covered by the ABM Treaty is defined as a missile defense system which has been field-tested against a ballistic missile which, in that test, ex-

ceeded: First, a range of more than 3,500 kilometers, or second a maximum velocity of more than 5 kilometers per second. Put simply, if a missile defense system has not field-tested in an ABM mode—and therefore has not demonstrated a field-tested capability to counter intercontinental ballistic missiles—it should not be limited in any by the ABM Treaty.

In addition, this amendment declares that it is the policy of the United States that "advanced theater missile defenses should be developed and deployed as soon as possible in order to provide protection for United States military forces deployed in foreign theaters of operation and for allied forces participating in operations with those United States forces."

I don't know of anyone who would disagree with that goal. We should proceed expeditiously with this important mission, and remove the "handcuffs" from our theater missile defense efforts. We should not permit the Russians to hold a veto over theater missile defense systems which are vitally needed by our armed forces.

Mr. President, I want to make clear that this amendment, narrowly drawn to the immediate issue of theater missile defenses, should in no way be interpreted as implying any lessening of the commitment of the co-sponsors to a national missile defense. Indeed, section 4 of the amendment states that,

Congress also hereby affirms its commitment to ultimately provide the United States with the capability to defend the people and territory of the United States from attack by ballistic missiles.

In this amendment we have dealt in more detail with theater missile defense systems because it is those systems which are in a more advanced stage of development, and which are currently being jeopardized by limitations which the administration may soon sign up to with the Russians.

We are also not attempting with this legislation to either reaffirm or reject the ABM Treaty. That is a debate for another day.

I urge my colleagues to support this important piece of legislation.

#### EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCIS- SIONS ACT

#### GORTON AMENDMENTS NOS. 569–571

Mr. GORTON proposed three amendments to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

##### AMENDMENT No. 569

On page 17 of Amendment 420, strike lines 14 through 17.

##### AMENDMENT No. 570

On page 26, after line 2, insert the following:

"This section shall only apply to permits that were not extended or replaced with a new term grazing permit solely because the

analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed and also shall include permits that expired in 1994 and in 1995 before the date of enactment of this Act."

##### AMENDMENT No. 571

On page 23, strike lines 17–18 and insert in lieu thereof the following:

"Of the available balances under this heading, \$3,000,000 are rescinded."

#### MURKOWSKI AMENDMENT NO. 572

Mr. GORTON (for Mr. MURKOWSKI) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 20, between lines 13 and 14, insert the following:

##### DEPARTMENTAL OFFICES OFFICE OF THE SECRETARY SALARIES AND EXPENSES (RESCISSION)

Of the funds made available under this heading in Public Law 103-332 for the Office of Aircraft Services, \$150,000 of the amount available for administrative costs are rescinded, and in expending other amounts made available, the Director of the Office of Aircraft Services shall, to the extent practicable, provide aircraft services through contracting.

#### STEVENS AMENDMENT NO. 573

Mr. GORTON (for Mr. STEVENS) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On Page 81 after line 18, add a new section as follows:

SEC. .(a.) As provided in subsection (b), an Environmental Impact Statement prepared pursuant to the National Environmental Policy Act or a subsistence evaluation prepared pursuant to the Alaska National Interest Lands Conservation Act for a timber sale or offering to one party shall be deemed sufficient if the Forest Service sells the timber to an alternate buyer.

(b.) The provision of this section shall apply to the timber specified in the Final Supplement to 1981-86 and 1986-90 Operating Period EIS ("1989 SEIS"), November, 1989, in the North and East Kuiu Final Environmental Impact Statement, January 1993; in the Southeast Chichagof Project Area Final Environmental Impact Statement, September 1992; and in the Kelp Bay Environmental Impact Statement, February 1992, and supplemental evaluations related thereto.

#### HOLLINGS (AND OTHERS) AMENDMENT NO. 574

Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. BINGAMAN, Mr. BREAUX, Mr. GLENN, Mr. GRAHAM, Mr. LEAHY, Mr. LEVIN, Mr. KOHL, Mr. LIEBERMAN, Mr. KENNEDY, Mr. KERRY, Mrs. MURRAY, Mr. PELL, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. ROBB) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 9 of the substitute amendment, strike line 1 through line 23 and insert the following: